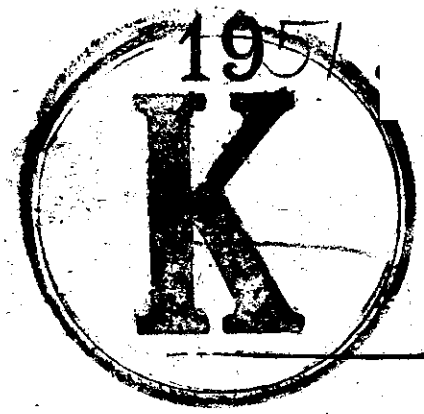

File No. State Transport
II/51 (N)
Legal Deptt
B **BRANCH**

Subject:— Notifications under the
Bom. State Road Transport
Corporation Act, 1950

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File No. State Transport II/51
(N)

(Gen. 194 a.

339-B

As pointed out in L.D. memo No. 8544 dated the 9th September 1948, No. 4270 dated the 18th April 1949 (para. 2), No. 9585 dated the 24th August 1949 (para 5) and No. 1644 dated the 6th February 1950, the State Legislature is competent to promote the proposed legislation which in substance corresponds to the provisions of the Bombay State Road Transport Act, 1950, which is seeks to replace.

2. However, from para 4 of the Hon'ble Shri Santhanam's letter dated the 30th November 1950, it would appear as pointed by H.D. that the Government of India is undertaking legislation for the amendment of the Motor Vehicles Act. If so, unless the amendments proposed to be made by the Government of India are available, it will not be feasible to draft the proposed Bill. Moreover attention of H.D. is invited to para 4 of L.D. memo No. 1644 dated the 6th February 1950.

Sd. J.R.Dhurandhar.
9/2

Additional Secretary to Government.

U.R. to H.D. No. 2565, dated the 10th February 1951.

VGP. 3-7-56.

The question whether or not Government should propose legislation for the purpose of amending section 20(c) of the Indian Trusts Act 1882, so as to include loans, bonds or debentures issued by the Bombay State Road Transport Corporation is for Finance Department to decide. The State Government is, however, competent to amend the said provision as the subject matter of the legislation falls under entry 10 in List III in the Seventh Schedule to the Constitution of India. As pointed in paragraph 1 on page 1 ante according to the orders of the Government of India the administrative approval of that Government would be necessary before undertaking any such legislation.

2. The other proposal related to this Government agreeing to guarantee the principal and interest on the debentures to be issued by the Bombay State Road Transport Corporation. Article 293 empowers the State Govt. to the giving of such guarantee. Under the guarantee, on default by the Corporation the Government will be liable to pay the interest every year and the principal when it becomes due. The expenditure which will be incurred for making for the aforesaid payments under the guarantee will not be a charge on the consolidated fund of the State within the meaning of clause (3) of article 202 of the Constitution of India and the expenditure will have therefore to be submitted as a demand for grant to the vote of the Legislative Assembly under article 203 (2) of the Constitution. The Assembly may assent or refuse to assent to such demand and if the Assembly refuses its assent the amount cannot be included in the Appropriation Bill with the result that under sub-clause (3) no money can be withdrawn from the Consolidated Fund of the State for the purpose of incurring such expenditure. Compliance with the giving of guarantee would therefore be contingent on the assent to the expenditure by the Legislature.

It will therefore have to be brought to the notice of the Corporation that as under the Constitution the expenditure in question is subject to the vote of the Legislature, the guanrantee will be subject to the condition that the Legislature sanctions such expenditure. Attention of Finance Department in this connection is invited to R.L.A.'s opinion No. 79-P-Confl dated the 31st August 1940 and the Advocate General's opinion of 30th August 1940.

Sd. J.R.Dhurandhar.
6Ø2

Additional Secretary to Government.

U.R. to F.D. No. 2376, dated the 7th February 1951.

VGP. 4-7-56.